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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09.639,868      | 08.16/2000  | Paul R. Weber        | 1A0013.CP2          | 3205             |

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EXAMINER

BUSHEY, CHARLES S

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 04/03/2003

121

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/639,868

Applicant(s)

WEBER ET AL.

Examiner

Scott Bushey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 25 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because the abstract should be limited to a single paragraph of between 50 and 150 words. Also, the abstract should be directed to the claimed invention, in the instant case, a carbonator equipped with a liquid level sensor device having an integral fluid contact plate that protects the level sensing portion from direct contact with the incoming liquid feed stream. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 7-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, fails to disclose or suggest controlling admission of the gas into the tank interior in response to the liquid level sensor, as currently recited at line 11 of newly added claim 7. Furthermore, the specification, as originally filed, fails to disclose or suggest that the fluid contact plate is provided "for facilitating better dissolving of the gas into solution in the liquid", as recited by the last two lines of claim 7. Lastly, the specification, as originally filed, while disclosing a liquid level sensor, does not disclose a "fluid sensor", as recited by newly added claim 13. While the level sensor of the instant application is clearly

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capable of sensing a liquid level that exists within the carbonator to at least a minimum level, there is no indication from the originally filed application that would suggest that a "fluid" would be sensed thereby, if it did not exist in the tank interior to at least a certain level. For example, a liquid having a level below the baffle plate would not apparently be detected by the disclosed sensing means.

4. Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, "the fluid", "the combined liquid", "the combined fluid", "the level sensor level sensing portion", "the fluid inlet", "the entering fluid", and "the flow sensing portion" all lack antecedent basis.

In claim 8, "the combined liquid" lacks antecedent basis.

In claims 9 and 11, on line 5 of each claim, reference to "the plate" renders the claims vague and indefinite since it is unclear as to whether applicant is referring to "the fluid contact plate" or "the baffle plate".

In claim 13, "the fluid inlet" and "the fluid sensor" lack antecedent basis.

***Allowable Subject Matter***

5. Claims 7-13 would be allowed if amended to overcome the rejections under 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, since the prior art of record fails to disclose or suggest the liquid level sensing means in combination with the fluid contact plate integral therewith to protect the internal sensing portion from the liquid entering through the liquid inlet.

*Conclusion*


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Simmons can be reached on (703) 308-1972. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Scott Bushey  
Primary Examiner  
Art Unit 1724

csb  
March 31, 2003

  
3/31/03